

ACTION BY: Regional Directors  
Special Nutrition Programs

SOURCE CITATION: Sections 225.2 ("Sponsor" and "Unit of local, municipal, county, or State government"), 225.8(a)(8), 225.16(b), 225.18, and 225.19

Eligibility and Responsibilities of Government  
Sponsors in the Summer Food Service Program

The purpose of this Instruction is to provide clarification regarding the eligibility and responsibilities of government sponsors in the Summer Food Service Program (SFSP).

As you know, Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, mandated a number of changes in the SFSP. Most notably, the changes affected the types of entities eligible to participate as sponsors in the Program and set restrictions on the administration of the Program at sites operated by units of government acting as Program sponsors.

The SFSP regulations specify that service institutions eligible to sponsor the Program include:

- (1) public or private nonprofit school food authorities;
- (2) public or private nonprofit residential summer camps; and
- (3) units of local, municipal, county, or State government.

Some confusion has arisen over the definition of eligible government sponsors. A unit of local, municipal, county, or State government is defined in Section 225.2 of the regulations as "an entity which is so recognized by the State constitution or State laws, such as the State administrative procedures act, tax laws, or other applicable State laws which delineate authority for government responsibility in the State." We anticipate that for a majority of applicants which apply as government entities, administering agencies will be able to determine very easily whether or not the applicant is a unit of government recognized by the State. However, there may be some instances where this determination will be more difficult to make. It should be emphasized that it is the applicant's responsibility to demonstrate its eligibility for program sponsorship, and that an applicant has the right to appeal the State's decision in accordance with Section 226.6(j) of the regulations.

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Similarly, some confusion has arisen over the degree of administrative control which government sponsors are required to exercise over their sites. The clear intent of the legislation was to tighten Program management by restricting the participation of private nonprofit sponsors such as service clubs and similar organizations. The law's intent with regard to government sponsors' degree of administrative control over sites is clarified in the provision which stipulates that units of government acting as sponsors "shall be eligible for reimbursement for meals served in programs...only if such programs are operated directly by such governments."

Government sponsors, therefore, must be ultimately responsible for the overall planning, supervision and operation of sites under their control. Program regulations require the sponsor to accept final financial and administrative responsibility for SFSP operations at those sites under its sponsorship. While documentation is not required, Section 225.8(a)(8) and Section 225.18(c)(3) require that each government sponsor be responsible for (1) managing site staff, including such areas as hiring, termination, and determining conditions of employment for site staff, and (2) exercising management control over program operations at sites throughout the period of program participation by performing the functions specified in Section 225.19. The requirement that government sponsors manage site staff does not prohibit the staffing of sites by volunteer employees or by paid, non-government employees; however, site staffs must be ultimately accountable to the sponsor.

Current regulations require applicant sponsors to demonstrate financial and administrative capability for Program operations and to accept final financial and administrative responsibility for total Program operations at all sites (Section 225.18(b)(1)). Sponsors are required to submit sponsor and site applications; train all site and administrative personnel in Program requirements; provide technical assistance to sites; visit and monitor all sites; maintain records which justify all costs and meals claimed for reimbursement; maintain a financial management system; serve meals which meet Program requirements; and retain responsibility for numerous other Program requirements described in Sections 225.18 and 225.19 of the regulations. These regulatory provisions, coupled with the requirements discussed above, provide sufficient assurance that government entities are responsible for the operation of the Program at sites under their sponsorship.

It is also important to point out that Section 225.16(b) of the regulations prohibits sponsors from contracting out for the management responsibilities of the Program, such as monitoring, enforcing corrective action, or preparing

Program applications. That is, sponsors contracting for food service management must recognize that sponsors remain responsible for the performance of the requirements set forth in Sections 225.18 and 225.19. Given these regulatory requirements, it should not be possible for private nonprofit organizations to operate the SFSP on behalf of another sponsor.

A handwritten signature in black ink, appearing to read "Samuel P. Bauer". The signature is fluid and cursive, with a large initial "S" and "P".

SAMUEL P. BAUER  
Director  
Child Nutrition Division